

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

SUIT – CCCMP No.196/2009 in CCCA. No. 66/2009 in E.P. 23/2009 in O.S. Nos.306/2008 – Payment of interest of Rs.78,49,052/- on the excess amount recovered against the B.G. to an extent of Rs.51,030,379/- due to late Sri M. Mohan Reddy, Contractor as per orders passed by the Hon'ble Chief Judge, City Civil Court, Hyderabad – Filing Appeal in Hon'ble High Court of Andhra Pradesh, Hyderabad – Stay Petition filed – Stage reported – Stay Petition filed – Interim stay granted – Depositing half Decretal amount – Orders – Issued.

IRRIGATION & CAD (PW) DEPARTMENT

G.O.Rt.No. 305

Dated.04. 05.2009

Read the following:

From the Administrator-cum-Chief Engineer, Sriramasagar
Lr.No.SRSP.II/DEE2/AE-3/16706/2009, dated.29.04.2009 and 01.05.2009

ORDER:

In the reference read above, the Administrator-cum-Chief Engineer, Sriramasagar Project in his letter dated 01.05.2009 has stated that Sri. M. Mohan Reddy, Contractor was entrusted the following 3 works by Government of Andhra Pradesh under AP.II:

- i) Package C 5-03 – DBM 31,
- ii) Package H1-05 DBM 38 Km. 0.00 to Km.20.00
- iii) Package H2-06 DBM 38 Km. 20.00 to Km.40.00

As per the Agreement Conditions the Contractor was given (a) Mobilizations Advance @ 10% of contract value on production of bank guarantees (b) Refund of 50% Retention amount from the accrued balance of Retention money on production of bank guarantees and the contractor submitted performance securities in shape of bank guarantees.

2. The Department terminated the contracts on 07.02.1992 duly issuing notice in terms of Agreements. On the date of termination the contractor has not repaid the Mobilization Advance fully. Hence, the Department initiated action for invoking bank guarantees for the due amounts from the contractor. The contractor approached courts for not to invoke the B.Gs. the Honorable High Court on 06.10.1993 permitted the Department to encash the BGs. Accordingly the BGs were encashed on 08.10.1993 for full amount of Rs.6,30,00,599. The final bills of above works were not settled due to the issue pending in court for a long time and failure on the part of the contractor to----- closing measurement and closing of account deposite several notices by the Department.

3. In the representation dated.01.08.2007, Smt. Pratima Reddy, W/o Late M. Mohan Reddy has requested to release the excess collected amount of Rs.51,54,993/- and furnished i) Release and discharge certificate on the bill forms and measurement books ii) Accepted measurements of bills certificates. Hence the closing bill of 3 works (C5-03, H1-05 & H2-06) have been finalized for an amount of Rs.51,30,379/- and the amount has been paid to Smt. M. Prathima Reddy W/o M. Mohan Reddy, vide Cheque No. 727610, dated.05.09.2007.

4. Smt. Prathima Reddy, in her representation dated.12.09.2007 addressed to Principal Secretary to Government, Irrigation & CAD Department, has requested for payment of interest

on Rs.51.00 Lakhs from 1993 till the date. The report was submitted to the Government vide letter dated.04.12.2007, wherein it was requested to examine for payment of interest from the date of disposal of W.P. No.19646/1993, i.e., 16.10.2003 on the principles of fair and natural justice.

5. In this connection the Government vide Memo No.19097/Maj.Irr.VIII (1)/07, dated.11.01.2008, has informed that as per terms of contract and Codal Rules Smt. M. Prathima Reddy W/o Late M. Mohan Reddy, Contractor, is not eligible for payment of interest for the amount with the Department and the Administrator-cum-Chief Engineer hence the representation was rejected and was asked to inform the same to the party. Accordingly the fact was intimated to Smt. Prathima Reddy, vide letter dated.24.01.2008.

6. Aggrieved by this Smt. Prathima Reddy filed O.S. No.306/2008 for payment of interest on Rs.51,30,379/- in the Court of Chief Judge, City Civil Court, Hyderabad.

7. The Hon'ble Chief Judge, City Civil Court, Hyderabad delivered the judgment on 22.01.2009 directing the Department (Respondents) to pay interest @ 11% from 08.10.1993 to 05.09.2007 amounting to Rs.78,49,052/- with in 60 days of receipt of judgment and if failed to pay, the plaintiff shall be entitled for interest @ 6% per Annum till the date of realization.

8. The Superintending Engineer, CCH has requested the Advocate General, Andhra Pradesh to file Appeal against the Judgment of Chief Judge, City Civil Court, Hyderabad in O.S. No.306/2008. Mean while Smt. Prathima Reddy, W/o Late M. Mohan Reddy, Contractor filed E.P. No.23/2009 for execution of Decree in O.S. No.306/2008. The Advocate General, Andhra Pradesh, Hyderabad has opined that there are no grounds to file appeal in the High Court. The same was informed to the Government vide letter dated.16.03.2009.

9. The Government vide Memo dated.17.03.2009 has requested the Government Pleader for Appeals of High court of Andhra Pradesh, Hyderabad to file the appeal against the Judgment in O.S. No.306/2008. After detailed discussions by the Secretary, Irrigation & CAD with the Advocate General on 07.04.2009, the Appeal has been filed in the High Court on 07.04.2009 and it is numbered as CCCA No.66/2009 and CCCMP. No. 196/2009 was also filed on 18.04.2009 for granting stay.

10. Meanwhile, Hon'ble Chief Judge City Civil Court, Hyderabad has issued attachment orders in E.P. No.23/2009 on 21.04.2009.

11. The High Court vide its interim order dated.24.04.2009 after hearing both sides granted interim stay subject on the condition of depositing half of the amount awarded by the court below within a period of 6 weeks from 24.04.2009 and on such deposit the respondent are permitted to withdraw the same without furnishing any security. The Advocate General has also requested the Department to comply with the order within stipulated time. In terms of Decree and Judgment in O.S. No.306/2008, the Decretal amount is Rs.78,49,052/- and the half of Decretal amount with interest works out to Rs.43,33,540/- considering the probable date of depositing as 31.05.2009, as detailed below.

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| 1. Amount Awarded by lower Court | Rs.78,49,052/- |
| 2. Interest @ 6% from 05.09.2007 to 31.05.2009 (only year 8 months 26 days) | Rs.8,18,028/- |

| | |
|-----------------------------|-----------------------|
| Total amount | Rs.86,67,080/- |
| Half Amount to be deposited | Rs.43,33,540/- |

12. In view of the above, the Administrator-cum-Chief Engineer, Sriramasagar Project has requested to issue necessary orders for depositing Rs.43,33,540/- towards the credit of

O.S.No.306/2008 on the file Chief Judge, City Civil Court, Hyderabad at an early date so as to avoid further legal complications in the matter.

13. Government after careful examination of the matter hereby accord depositing Rs.43,33,540/- (Rupees Forty three lakhs thirty three thousand five hundred and forty only) towards the credit of O.S. No.306/2008 on the file Chief Judge, City Civil Court, Hyderabad so as to avoid further legal complication in the matter. The Administrator-cum-Chief Engineer, Sriramasagar Project is requested to verify calculation of decretal amount and interest thereon before depositing the amount.

14. The amount sanctioned in para 13 above shall be debited to the Head of Account: 2701 – M & MI, 01 – Major Irrigation, 116 – Sriramasagar Project, 11 – Normal State Plan, 27 – Canals & Distribution, 530 – Major Works, 531 – Other Expenditure.

15. The Administrator-cum-Chief Engineer, Sriramasagar Project shall take necessary further action in the matter.

16. This order issued with the concurrence of the Finance (W&P) Department vide their U.O.No.SP5394/F4(2)09-1, dated.04.05.2009.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ADITYA NATH DAS
SECRETARY TO GOVERNMENT

To

The Administrator-cum-Chief Engineer, Sriramasagar Project, Hyderabad.

The Accountant General, Andhra Pradesh, Hyderabad

The Pay and Accounts Officer, Andhra Pradesh, Hyderabad

The S.E.I& CAD, Construction Circle, K.C.Colony, Hanumakonda, Warangal District.

Copy to:

Finance (W&P) Department

P.S. to Minister (Major Irrigation),

P.S. Secretary to Government

//FORWARDED::BY ORDER//

SECTION OFFICER